

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY,	)	
Plaintiff,	)	
v.	)	Civil Action No. 3:11-30285-MAP-RBC
MERRILL LYNCH, PIERCE, FENNER & SMITH INC.; DEUTSCHE BANK SECURITIES INC.; GOLDMAN, SACHS & CO., INC; J.P. MORGAN SECURITIES LLC; and RBS SECURITIES INC.,	)	
Defendants.	)	

**JOINT MOTION FOR APPROVAL OF STIPULATION AND  
[PROPOSED] ORDER FOR ADOPTION IN THIS ACTION OF  
MAGISTRATE NEIMAN'S MARCH 5, 2013 MEMORANDUM AND ORDER  
WITH REGARD TO PLAINTIFF'S MOTIONS FOR DETERMINATION  
ON ITS EXPERT DISCOVERY SCHEDULE**

WHEREAS, on October 29, 2012, Plaintiff Massachusetts Mutual Life Insurance Company ("MassMutual" or "Plaintiff") and defendants Merrill Lynch, Pierce, Fenner & Smith Inc., Deutsche Bank Securities Inc., Goldman, Sachs & Co., J.P. Morgan Securities LLC and RBS Securities Inc. (collectively, "Defendants") submitted a Joint Statement Regarding Proposal for Expert Discovery, in which MassMutual requested an order setting a schedule for an early determination of issues related to a sampling methodology. (Dkt. No. 92.) Defendants opposed MassMutual's request. (*Id.*) An order has not yet been issued in connection with the Joint Statement;

WHEREAS, on February 11, 2013, in the eight MassMutual actions referred to Magistrate Judge Neiman,<sup>1</sup> MassMutual filed a Motion for an Order Setting a Schedule for an Early Determination of Sampling Issues, with MassMutual and defendants in those actions simultaneously submitting Competing Statements Regarding Plaintiff's Motion for Determination on Its Expert Discovery Proposal. (See, e.g., Case No. 11-cv-30039, Dkt. Nos. 112, 113.);

WHEREAS, on March 5, 2013, in the eight actions, Magistrate Judge Neiman issued a Memorandum and Order With Regard To Plaintiff's Motions For Determination On Its Expert Discovery Schedule. (See, e.g., Case No. 11-cv-30039, Dkt. 117 (the "March 5, 2013 Order").)

As part of that ruling, Magistrate Judge Neiman set the following schedule:

- i. Plaintiff shall designate and disclose information regarding its sampling experts in accord with FED. R. CIV. P. 26(a)(2) by April 12, 2013.
- ii. Defendants, if they wish, may take Plaintiff's expert's deposition and file their *Daubert* motion challenging Plaintiff's expert no later than May 21, 2013. By said date. Defendants also shall designate and disclose information regarding their sampling expert, if any, in accord with FED. R. CIV. P. 26(a)(2).
- iii. Plaintiff, if it wishes, may take Defendant's expert deposition and file its opposition to Defendants' *Daubert* motion by June 18, 2013, to which Defendants may reply by July 2, 2013.
- iv. The *Daubert* hearing shall take place on July 11, 2013, at 10:00 a.m. before Judge Ponsor.

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<sup>1</sup> The eight actions are: (i) *MassMutual v. DB Structured Products, Inc., et al.*, Case No. 11-cv-30039-MAP; (ii) *MassMutual v. RBS Financial Products Inc., et al.*, Case No. 11-cv-30044-MAP; (iii) *MassMutual v. DLJ Mortgage Capital, Inc., et al.*, Case No. 11-cv-30047-MAP; (iv) *MassMutual v. Credit Suisse First Boston Mortgage Securities Corp., et al.*, Case No. 11-cv-30048-MAP; (v) *MassMutual v. JPMorgan Chase Bank, NA, et al.*, Case No. 11-cv-30094-MAP; (vi) *MassMutual v. Goldman Sachs Mortgage Company, et al.*, Case No. 11-cv-30126-MAP; (vii) *MassMutual v. Impac Funding Corporation, et al.*, Case No. 11-cv-30127-MAP; and (viii) *MassMutual v. HSBC Bank, USA, National Association, et al.*, Case No. 11-cv-30141-MAP.

WHEREAS, MassMutual and Defendants agree that, to conserve the resources of the parties and the Court, the March 5, 2013 Order shall apply in its entirety to this action, including the schedule set forth in the Order.

IT IS HEREBY STIPULATED AND AGREED by and between MassMutual and Defendants, through their undersigned counsel, subject to approval of the Court:

1. The March 5, 2013 Order shall apply in its entirety to this action;
2. Plaintiff shall designate and disclose information regarding its sampling experts in accord with FED. R. CIV. P. 26(a)(2) by April 12, 2013;
3. Defendants, if they wish, may take Plaintiff's expert's deposition and file their *Daubert* motion challenging Plaintiff's expert no later than May 21, 2013. By said date, Defendants also shall designate and disclose information regarding their sampling expert(s), if any, in accord with FED. R. CIV. P. 26(a)(2);
4. Plaintiff, if it wishes, may take Defendants' expert(s) deposition and file its opposition to Defendants' *Daubert* motion by June 18, 2013, to which Defendants may reply by July 2, 2013;
5. The *Daubert* hearing shall take place on July 11, 2013, at 10:00 a.m. before Judge Ponsor.
6. The parties shall have the same rights to appeal, or to seek reconsideration or modification of, this Order as the March 5, 2013 Order and by stipulating to this Order, the parties do not extinguish or modify any such rights.

IT IS SO ORDERED.

Dated: March 28, 2013



Michael A. Ponsor  
United States District Judge

DATED: March 20, 2013

MASSACHUSETTS MUTUAL LIFE INSURANCE  
COMPANY

By: John J. Egan

John J. Egan (BBO 151680)  
Stephen E. Spelman (BBO 632089)  
Egan, Flanagan and Cohen, P.C.  
67 Market Street, P.O. Box 9035  
Springfield, Massachusetts 01102  
Telephone: (413) 737-0260  
Fax: (413) 737-0121  
ejm@efclaw.com; ses@efclaw.com

Of counsel:

QUINN EMANUEL URQUHART &  
SULLIVAN, LLP

Philippe Z. Selendy (admitted *pro hac vice*)  
Jennifer J. Barrett (admitted *pro hac vice*)  
51 Madison Avenue, 22<sup>nd</sup> Floor  
New York, NY 10010  
(212) 849-7000  
Fax (212) 849-7100

A. William Urquhart (admitted *pro hac vice*)  
Harry A. Olivari, Jr. (admitted *pro hac vice*)  
Molly Stephens (admitted *pro hac vice*)  
865 South Figueroa Street, 10<sup>th</sup> Floor  
Los Angeles, CA 90017  
(213) 443-3000  
Fax (213) 443-3100

By /s/ Jeffrey L. McCormick

Jeffrey L. McCormick (BBO #329740)

ROBINSON DONOVAN, P.C.

1500 Main Street, Suite 1600

Springfield, Massachusetts 01115

Telephone: (413) 732-2301

Fax: (413) 785-4658

jmcormick@robinsondonovan.com

Of Counsel:

Robert H. Baron (admitted *pro hac vice*)

Karin A. DeMasi (admitted *pro hac vice*)

J. Wesley Earnhardt (admitted *pro hac vice*)

CRAVATH, SWAINE & MOORE LLP

825 Eighth Avenue

New York, NY 10019

Telephone: (212) 474-1000

Fax: (212) 474-3700

rbaron@cravath.com

kdemasi@cravath.com

wearnhardt@cravath.com

*Counsel for Defendant J.P. Morgan Securities  
LLC*

By /s/ Jeffrey R. Rudman

Jeffrey B. Rudman (BBO #433380)

Andrea J. Robinson (BBO #556337)

Christopher B. Zimmerman (BBO #653854)

WILMER CUTLER PICKERING HALE AND

DORR LLP

60 State Street

Boston, MA 02109

Phone (617) 526-6000

Fax (617) 526-5000

jeffrey.rudman@wilmerhale.com

andrea.robinson@wilmerhale.com

christoper.zimmerman@wilmerhale.com

*Counsel for Defendant Merrill Lynch, Pierce,  
Fenner & Smith Inc.*

By /s/ Kathy B. Weinman

Kathy B. Weinman (BBO #541993)  
Azure Abuirmeileh (BBO #670325)  
COLLORA LLP  
100 High Street, 20th Floor  
Boston, Massachusetts 02110  
Telephone: (617) 371-1000  
Fax: (617) 371-1037  
kweinman@collorallp.com  
aabuirmeileh@collorallp.com

Of Counsel:

Thomas C. Rice (admitted *pro hac vice*)  
David J. Woll (admitted *pro hac vice*)  
Alan Turner (admitted *pro hac vice*)  
SIMPSON THACHER & BARTLETT LLP  
425 Lexington Avenue  
New York, New York 10017  
Telephone: (212) 455-2000  
Fax: (212) 455-2502  
trice@stblaw.com  
dwoll@stblaw.com  
aturner@stblaw.com

*Counsel for Defendants Deutsche Bank Securities Inc. and RBS Securities Inc.*

By /s/ Mark A. Berthiaume

Mark A. Berthiaume (BBO #041715)  
GREENBERG TRAURIG, LLP  
One International Place  
Boston, Massachusetts 02110  
Telephone: (617) 310-6007  
Fax: (617) 310-6001  
berthiaumem@gtlaw.com

Of Counsel:

Richard H. Klapper (admitted *pro hac vice*)  
David M.J. Rein (admitted *pro hac vice*)  
SULLIVAN & CROMWELL LLP  
125 Broad Street  
New York, NY 10004-2498  
Telephone: (212) 558-4000

Fax: (212) 558-3588  
[klapperr@sullcrom.com](mailto:klapperr@sullcrom.com)  
[reind@sullcrom.com](mailto:reind@sullcrom.com)

*Counsel for Defendant Goldman, Sachs & Co.*

**CERTIFICATE OF SERVICE**

I hereby certify that this document, filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this 20th day of March, 2013.

*/s/ John J. Egan*

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John J. Egan